

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHARLES S. McNEAL,

Plaintiff,

v.

LT. PAUL WEICHBROD,

Defendant.

ORDER

13-cv-419-wmc

Plaintiff Charles McNeal, an inmate in the custody of the Green County Sheriff's Department at the Green County Jail in Monroe, Wisconsin, has submitted a proposed civil action under 42 U.S.C. § 1983. With the exception of habeas corpus proceedings, the fee for civil actions filed after May 1, 2013 is \$400 unless a litigant qualifies as indigent under the federal *in forma pauperis* statute, 28 U.S.C. § 1915(a), in which case the fee is \$350. Plaintiff has filed a motion for leave to proceed *in forma pauperis* in this case. (Dkt. 2). After considering the motion and supporting documentation, the court concludes that plaintiff qualifies for indigent status for the reasons set forth below.

Because plaintiff is incarcerated, his case is governed by the Prisoner Litigation Reform Act (PLRA), 28 U.S.C. § 1915(b), which requires indigent inmates to pay by installment the entire filing fee for civil actions and appeals. The federal *in forma pauperis* statute does not permit a court to waive a prisoner's entire obligation to pay filing fees, but it does allow a qualifying individual to proceed without prepaying some or all of the filing fee. To determine whether a prisoner qualifies for indigent status for purposes of the PLRA, this court applies the formula set forth in 28 U.S.C. § 1915(b)(1). According to this formula, a prisoner requesting leave to proceed *in forma pauperis* must prepay 20% of the greater of the average monthly balance or the average monthly deposits made to his prison account in the six-month period immediately preceding the filing of the complaint. In other words,

he must make an initial partial payment of the filing fee before the court will consider his complaint. Thereafter, he shall be required to make monthly installment payments from his trust fund account. 28 U.S.C. § 1915(b)(2).

According to plaintiff's complaint, he has only been at the Green County Jail since April 17, 2013. From the account statement that he submitted with this complaint, 20% of the average monthly deposits to plaintiff's account is \$1.00. For this case to proceed, plaintiff must pay this amount on or before July 11, 2013.

ORDER

IT IS ORDERED that:

1. The motion filed by plaintiff Charles McNeal for leave to proceed without prepayment of fees (Dkt. # 2) is GRANTED.
2. Plaintiff is assessed \$1.00 as an initial partial payment of the \$350 fee for filing this case as an indigent litigant. He shall submit a check or money order made payable to the "Clerk of Court" in the amount of \$1.00 on or before July 11, 2013. *Plaintiff is advised that if he fails to comply with this order (or show good cause for any failure to comply), then the court will presume that plaintiff does not wish to proceed and the court will dismiss this lawsuit without further notice to plaintiff pursuant to Fed. R. Civ. P. 41(a).*
3. No further action will be taken in this case until the court receives plaintiff's initial partial filing fee as directed above and the court has screened the complaint as required by the PLRA, 28 U.S.C. § 1915A. Once the screening process is complete, a separate order will issue as soon as practicable depending on the demands of this court's heavy docket.

Entered this 20th day of June, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge